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OFFICE OF PETITIONS

In re Application of
Aceti, et al.
Application No. 09/524,666
Filed: March 13, 2000
Attorney Docket No.SMI-1345pA

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed December 11, 2006.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply to the election/restriction requirement mailed December 28, 2005, set a period for reply of one month from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136. A response was filed on February 2, 2006. By a communication mailed March 9, 2006, petitioner was advised that the response of February 2, 2006, was not proper and the requirement was made for supplemental election. A review of the communication mailed March 9, 2006, did not reveal a new period for response. Accordingly, it is assumed that the period for response remained as set forth in the restriction/election requirement mailed December 28, 2005. No further responses were received within the allowable period, and the application became abandoned on January 29, 2006. A Notice of Abandonment was mailed on November 28, 2006.

The instant petition was filed on December 11, 2006. Petitioner maintains that a response to the February 2, 2006, communication was filed on September 11, 2006. It is noted, however, that the maximum period for reply to the election/restriction requirement expired July 29, 2006¹. Accordingly, the holding of abandonment was proper as a timely response to the election/restriction requirement was not received. Petitioner may file a renewed petition to withdraw the holding of abandonment, but will need to demonstrate that the February 2, 2006, communication set a new period for reply. If petitioner is not able to establish this the application may be revived pursuant to 37 CFR 1.137.

Further correspondence with respect to this matter should be addressed as follows:

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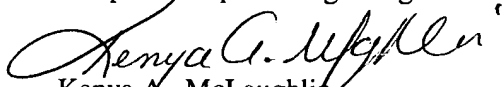
¹ This date was calculated assuming that the period for filing a proper response to the election/restriction requirement ran from December 28, 2005, and that the February 2, 2006, communication did not set a new period for reply.

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